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July 19, 2013

VIA ECF

The Honorable James L. Robart
United States District Court
Western District of Washington
700 Stewart Street, Suite 14128
Seattle, WA 98101-9906

Re: *Microsoft Corp. v. Motorola, Inc.*, et al., No. 10-cv-1823-JLR

Dear Judge Robart:

We write with respect to Defendants' Motion to Exclude and Strike Testimony of Todd Menenberg (the "Motion") (Dkt. No. 722), set for hearing at 1:30 p.m. on July 30, 2013.

As part of its Motion, Motorola challenges Mr. Menenberg's reliance on certain work performed by Microsoft counsel at Sidley Austin, LLC ("Sidley"). This work included color-coding numerous invoice entries to indicate the proportion of Sidley work related to Motorola's H.264 or 802.11 standard-essential patents ("SEPs") as compared to Motorola's non-SEPs. For example, where a Sidley attorney performed work addressing five Motorola patents but only four of those patents were Motorola SEPs, that entry was color-coded to indicate that only 80% (or 4/5) should be allocated to Microsoft's damages claim. In the above-referenced action, Microsoft is not claiming fees associated with work unrelated to Motorola's SEPs.

In an effort to simplify the issues to be presented both at the July 30 hearing and at the upcoming trial, Microsoft has decided that it will not seek recovery for any Sidley time entries requiring this color-coded allocation, removing these entries as issues in connection with Mr. Menenberg's testimony. As reflected in Exhibit 1 to Mr. Menenberg's report (*see* Dkt. No. 723, Ex. A), this will reduce Microsoft's claim for recovery of legal fees, costs and expenses by \$3,105,517.

Very truly yours,

CALFO HARRIGAN LEYH EAKES LLP



Arthur W. Harrigan, Jr.

AWH:src

cc: All Counsel (via ECF)